Remarks / Arguments

Claims 1-9 and 17 are pending. Claims 1, 3, 4, 7, 8 and 9 have been amended. Claims 12, 14, 15 and 16 have been canceled without prejudice or disclaimer of any previously claimed subject matter. Applicants reserve the right to present any withdrawn or canceled subject matter in one or more continuation or divisional applications.

Applicants note that the section "Legend to Figure 1", on page 20, lines 17-20 will be deleted from the specification and will be included in the formal drawing of Figure 1, upon submission of formal drawings. The Examiner has requested that formal drawings be submitted upon allowance.

The Examiner has rejected claims 12 and 15 under 35 U.S.C. §112, first paragraph. Claims 12 and 15 have been canceled without prejudice.

The Examiner has rejected claims 1, 3, 4, 7, 8, 9, 12 and 14-16 under 35 U.S.C. §112, second paragraph. The Examiner has objected to claim 1 for not specifying whether B is a protected or unprotected base. Applicants note that B' is the optionally protected form of B, as recited in step 4 of claim 1. Protecting groups for purine and pyrimidine bases, as recited in claim 1, are well known in the art, and one of ordinary skill in the art would readily understand the scope of the term "protecting group".

The Examiner has objected to the term "such as" in claim 1 and "in particular" in claim 4. Claims 1 and 4 have been amended to remove these terms.

The Examiner has rejected the term "optionally substituted" in claim 1. Claim 1 has been amended to remove this term.

The Examiner has objected to the term "removed" in claim 1 and requires that this step is more clearly defined. Step 3 of claim 1 refers to an optional deoxygenation reaction which may be used to prepare compounds wherein the 2' hydroxy group is replaced by a 2' hydride. This step is described in the specification on page 6, lines 25-32 and on page 7, lines 29-32. Claim 1 has been amended to more clearly recite that step 3 comprises a step wherein "optionally, the OH group at the 2' position is removed by a deoxygenation reaction".

The Examiner has objected to claim 3 as lacking proper antecedent basis. Applicants have amended claim 3 to include "further comprising" language, as suggested by the Examiner.

The Examiner has rejected claim 7, lines 1-5 as (i) lacking antecedent basis in claim 1 in that claim 1 does not provide for the conversion of uracil to cytosine, and (ii) reciting steps which have not been defined thereby rendering the claim incomplete. It is submitted that the amendment to claim 7 overcomes this rejection.

The Examiner has rejected claim 9 as being improperly dependent and also for the use of the term "characterized in that". Claim 9 has been amended to depend from claim 8, rather than claim 7, and the language "characterized in that" has been replaced by "wherein" to more distinctly claim the subject matter.

The Examiner has rejected claims 12 and 14-16 as being incomplete for lacking the phrase "host in need thereof". Claims 12 and 14-16 have been canceled without prejudice.

The Examiner has rejected claims 15 and 16 for lacking proper antecedent basis. Claims 15 and 16 have been canceled without prejudice.

The Examiner has rejected claims 12 and 14-16 under 35 U.S.C. §102(b) as being anticipated by Farina et al. EP Patent No. 0 285 884. Claims 12 and 14-16 have been canceled without prejudice.

The Examiner rejected claims 1, 2, 5, 12 and 14-17 under 35 U.S.C. §102(b) as being anticipated by Johansson et al. EP Patent No. 0 352 248. In particular, the Examiner notes pages 7-10 of this reference. On page 7 of Johansson et al., a glycoside condensation reaction is described as a method of preparing the disclosed compounds. The initial sugar used in this reaction includes H or F at the 2' position. The initial sugar used for the condensation reaction as recited in amended claim 1, step 1, of the present application requires that the 2' position of the sugar moiety is substituted by an $OOCR'_3$ group (R'_3 = C_1 to C_5 alkyl group or phenyl radical), not by H or F as required by the process described in Johansson et al. Thus, the claimed process is distinct from that which is disclosed in Johansson et al. As disclosed on page 4, lines 15-20 of the present application, by protecting the acyl group at the 2' position, a stereospecific coupling occurs with the heterocyclic base leading stereospecifically to the β-anomer of the nucleoside, because it induces the formation of an intermediate acyloxonium. Thus, claims 1, 2, and 5 of the present application are not anticipated by Johansson et al.

Conclusion

Withdrawal of the outstanding rejections is respectfully requested. Should the Examiner determine that any additional fees are due, the Commissioner is authorized to charge any additional fees to Deposit Account 11-0980.

Respectfully submitted,

Sherry M. Knowles., Esq.
Reg. No. 33,052

King & Spalding, LLP
1180 Peachtree Street, N.E.
Atlanta, GA 30309-3521
Phone: (404) 572-3541
Fax: (404) 572-5134